EXHIBIT 104

PUBLIC

Page 1

1

2   UNITED STATES DISTRICT COURT
     EASTERN DISTRICT OF VIRGINIA
3   ALEXANDRIA DIVISION

     _____
4
     UNITED STATES, et al.,
5
                          Plaintiffs,
6
              -against-
7
     GOOGLE LLC,
8
                          Defendant.
9
     No: 1:23-cv-00108-LMB-JFA
10   _____
11
                          September 28, 2023
12   10:04 a.m.
13
14
15
16   DEPOSITION of SIMON WHITCOMBE,
17   taken by Defendant, pursuant to Notice,
18   held at the offices of COVINGTON & BURLING
19   LLP, 620 Eighth Avenue, New York, New York
20   before Wayne Hock, a Notary Public of the
21   State of New York.
22
23
24
25   Job No. CS6114685

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1
2 A P P E A R A N C E S:
3
4   UNITED STATES DEPARTMENT OF JUSTICE
     Attorneys for Plaintiffs
5   450 5th Street, NW
         Washington, D.C. 20001
6
     BY: JEFFREY VERNON, ESQ.
7   Jeffrey.Vernon@usdoj.gov
         ISABEL AGNEW, ESQ.
8   isabel.agnew@usdoj.gov
9
     AXINN, VELTROP & HARKRIDER LLP
10   Attorneys for Defendant
         1901 L Street, NW
11   Washington, D.C. 20036
12   BY: DANIEL S. BITTON, ESQ.
         dbitton@axinn.com
13   NEELESH MOORTHY, ESQ.
         nmoorthy@axinn.com
14
15
     COVINGTON & BURLING LLP
16   Attorneys for Witness
         620 Eighth Avenue
17   New York, New York 10018
18   BY: E. KATE PATCHEN, ESQ.
         kpatchen@cov.com
19   DANIEL WELTZ, ESQ.
         dweltz@cov.com
20
21
22
23
24
25

Page 3

1
2
     A P P E A R A N C E S: (Continued)
3
4   ALSO PRESENT:
5
         RON MARRAZZO, Videographer
6   ERIC MEIRING, ESQ.
7
8   *   *   *
9
10
11
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Page 4

1
2   THE VIDEOGRAPHER: Good morning.
3   We are now going on the record.
4   The time is approximately
5   a.m.
6   This is the 28th of September,
7   2023.
8   This is the video recorded
9   deposition of Simon Whitcombe in the
10   matter of United States, et al. versus
11   Google, LLC.
12   This case is filed in the U.S.
13   District Court, Eastern District of
14   Virginia, Alexandria Division. The
15   docket number is
16   1:23-cv-00108-LMB-JFA.
17   The location of this deposition
18   is Covington and Burling located at
19   620 Eighth Avenue in New York City.
20   My name is Ron Marrazzo
21   representing Veritext Legal Solutions,
22   and our court reporter is Wayne Hock
23   from the firm Veritext Legal
24   Solutions.
25   I'm not related to any party in

Page 5

1
2   this action, nor am I financially
3   interested in its outcome.
4   All counsel attending will be
5   noted on the written transcript.
6   We can now swear in the witness
7   and proceed.
8 S I M O N   W H I T C O M B E, having
9   been first duly sworn by a
10   Notary Public of the State of
11   New York, upon being examined,
12   testified as follows:
13 EXAMINATION BY
14 MR. BITTON:
15   Q.   Good morning, Mr. Whitcombe. My
16 name is Daniel Bitton. I'm an attorney
17 with Axinn, Veltrop and Harkrider. I'm
18 here on behalf of Google in this matter.
19   Can you please state your full
20 name for the record?
21   A.   Yeah, Simon Whitcombe.
22   Q.   Thank you.
23   Mr. Whitcombe, where do you
24 live?
25   A.   I live in New Canaan,

2 (Pages 2 - 5)

Page 22

1   S. Whitcombe
2   Q.   Okay.
3   Approximately how much revenue
4   did Meta generate from ad sales on its
5   owned and operated properties in 2021?
6   A.   I don't have -- I don't have the
7   number committed to memory from 2021, but
8   it would be somewhere in the order of a
9   hundred billion dollars.
10   Q.   Is that sales number globally?
11   A.   Yes.
12   Q.   And do you have a sense for what
13 it was for North America or the United
14 States?
15   A.   I don't, I don't have the
16 breakout.
17   Q.   And how about in 2022, would it
18 be around a hundred billion dollars as
19 well?
20   A.   Yeah, it would be approximately
21 the same.
22   Q.   Has Meta's ad revenue from ad
23 sales on its owned and operated properties
24 grown since 2016?
25   A.   Yes, it has.

Page 23

1   S. Whitcombe
2   Q.   Approximately -- well, have you
3   ever heard of the term "monthly active
4   users"?
5   A.   Yes.
6   Q.   What does that mean?
7   A.   It means the number of people
8   that visit a property within a month time
9   frame.
10   Q.   Is that a metric that Meta
11 tracks?
12   A.   Yes.
13   Q.   Why?
14   A.   Well, it's an important part of
15 our quarterly earnings calls, financial
16 reporting. I know the analysts and
17 investors follow this quite closely. And
18 it's a metric that can be important for
19 some advertisers when we think about, you
20 know, how we stack up competitively versus
21 the market.
22   Q.   And why is it a metric that's
23 important to some advertisers?
24   A.   Because some advertisers might
25 care about overall reach and want to work

Page 24

1   S. Whitcombe
2   with properties that can reach a
3   significant amount of people in a given
4   region.
5   Q.   Approximately how many monthly
6   active users that Meta serves across its
7   owned and operated properties in 2022?
8   MS. PATCHEN: I object as to the
9   scope.
10   THE WITNESS: Again, you know,
11   on the monthly side, breaking it down
12   as an aggregation, I don't have that
13   committed to memory. I would imagine
14   it would be somewhere in the order of
15   two to three billion.
16   Q.   Thank you.
17   Have you ever heard of the term
18 "marketing objectives"?
19   A.   Yes.
20   Q.   What does that mean to you?
21   A.   It's an objective that
22 advertisers -- it's an objective that
23 advertisers would want to drive for their
24 individual businesses.
25   Q.   Can you provide some examples of

Page 25

1   S. Whitcombe
2   marketing objectives that an advertiser
3   might pursue?
4   A.   Of course.
5   So sales would be an example
6   objective, so advertisers would want to
7   drive sales for their individual business.
8   App, so driving app installs would be --
9   would be an objective. Driving website
10 visits would be an objective. Driving
11 when it's in consideration would be an
12 objective for advertisers.
13   Q.   Does Meta enable its advertiser
14 customers to achieve any of those
15 objectives on its owned and operated
16 properties?
17   A.   Yes, it does.
18   Q.   We spoke earlier about Meta
19 serving three different types of
20 advertisers or three different categories
21 it has for advertisers. I want to talk a
22 little bit more about the small business
23 advertisers that Meta serves.
24   A.   Uh-huh.
25   Q.   What does Meta do to attract

7 (Pages 22 - 25)

Page 26

1   S. Whitcombe
2 small business advertisers to buy ads on
3 the owned and operated properties?
4   MR. VERNON: Objection to
5   foundation.
6   THE WITNESS: I don't work
7   inside of the small business group,
8   but we market -- I do know that we
9   market to businesses that have created
10   pages and profiles within our apps and
11   services for them to promote their
12   business on our platform. I believe
13   that we do e-mail marketing -- I think
14   we engage in marketing to reach small
15   businesses to advertise on our
16   platform. And we use our own platform
17   for a significant portion of that
18   marketing.
19   Q.   You mentioned the Meta Ads
20 Manager --
21   A.   Yes.
22   Q.   -- product earlier.
23   Can you describe what that is?
24   A.   Yeah, it's an interface that
25 allows advertisers, businesses to run

Page 27

1   S. Whitcombe
2 advertisements on our platform.
3   Q.   And when you say on your
4 platform, are you referring to Facebook
5 and Instagram?
6   A.   Yes, I am.
7   Q.   Are there any features --
8   MR. BITTON: Strike that.
9   Q.   Has Meta done anything to make
10 Meta Ads Manager easy to use for small
11 business advertisers?
12   MR. VERNON: Objection to
13   foundation.
14   THE WITNESS: I think we -- I
15   think we strive to make Ads Manager
16   easy to use for all advertisers. The
17   easier we can make it for a company to
18   schedule and run and measure an
19   advertisement on our platform, the
20   best -- the better it is for all types
21   of businesses.
22   Q.   Does Meta -- in selling ad space
23 on its owned and operated properties, does
24 Meta offer -- does Meta offer any services
25 specific to small business customers?

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1   S. Whitcombe
2   MR. VERNON: Objection to
3   foundation.
4   THE WITNESS: Generally, no.
5   You know, our approach has been to
6   provide tools, services for all
7   advertisers. I mean, there may be
8   some tools that are used more by small
9   businesses than large businesses, but
10   generally we haven't specifically
11   built tools for small businesses.
12   Q.   Have you heard of the term
13 "self-service ad platform"?
14   A.   Yes.
15   Q.   What is that?
16   A.   That's Ad Manager. Ad Manager
17 is our self-service ads platform.
18   Q.   What does the self-service app
19 element of that definition refer to?
20   A.   It refers to the fact that
21 anyone or any business can serve an ad
22 without having to speak to anybody,
23 essentially just reserve an ad themselves
24 with our Ads Manager product.
25   Q.   Are you aware of any other

Page 29

1   S. Whitcombe
2 companies offering self-serve platforms to
3 advertisers?
4   MR. VERNON: Objection to
5   foundation.
6   THE WITNESS: Yes, yes. I
7   believe Google has a similar type of
8   platform and I think others in digital
9   advertising have similar platforms,
10   too.
11   Q.   Which -- you believe that Google
12 has a similar type of platform.
13   A.   A similar kind of interface that
14 allows people to self-serve their ads.
15   Q.   Similar to what?
16   A.   Similar to Meta's Ad Manager.
17   Q.   And which -- do you know the
18 name of Google's self-serve platform?
19   A.   I do not.
20   Q.   Do you have Google Ads in mind;
21 is that the self-serve platform that
22 you're referring to?
23   A.   Yes.
24   MR. VERNON: Objection to form.
25   Q.   In selling advertising on its

8 (Pages 26 - 29)

Page 30

1   S. Whitcombe
2 owned and operated properties, who does
3 Meta compete with for ad space?
4   A.   I mean, we compete with anybody
5 that is selling advertising in any format.
6 So that would be -- that would include --
7 this isn't an exhaustive list, but I would
8 say it includes anybody invested in
9 broadcast or television advertising,
10 outdoor advertising, it would include of
11 course digital advertising as well.
12   Q.   Can you name any companies that
13 you have in mind as competitors of Meta in
14 the sale of advertising space on its owned
15 and operated properties?
16   A.   Yeah. It would be anybody from
17 a CBS and an NBC to a Google or other
18 digital properties. It would be retail
19 media networks, like Walmart Connect.
20 Yeah, there's a few names to get us
21 started.
22   Q.   What does Meta do to compete
23 effectively against those competitors in
24 the sale of advertising space on its owned
25 and operated properties?

Page 31

1   S. Whitcombe
2   A.   I mean, I'd go back to the value
3 proposition that we talked about at the
4 beginning. I would say that the -- we
5 compete on the reach and engagement that
6 we're able to offer advertisers, the
7 extensive tools that we make available for
8 advertisers that cover as many objectives
9 as we believe they would care about, like
10 sales or awareness and consideration. It
11 would be the different formats that we
12 offer. It would be the performance that
13 we drive from all those solutions. And
14 then the ability that we give advertisers
15 to measure the efficacy of those
16 solutions.
17   Q.   And when you say "the
18 performance that we drive from all those
19 solutions", what specifically are you
20 referring to there?
21   A.   I think each advertiser's
22 performance outcome that they care about
23 tends to be quite different, both in terms
24 of what they care about and how they
25 measure it. But that would be terms like

Page 32

1   S. Whitcombe
2 "return on ad spend" would be an example.
3 Another might be "cost per acquisition" or
4 "CPA" if their focus is on acquiring new
5 customers or acquiring customers. Another
6 might be "CPM", right, if they're focused
7 on reaching as many people as efficiently
8 as they possibly can.
9   Q.   You mentioned return on ad
10 spend.
11   What is that exactly?
12   A.   So if I invest a dollar in
13 advertising, what would be the return on
14 that dollar; right? Obviously if the
15 return was less than a dollar, that would
16 not be profitable marketing. The focus is
17 to get that number greater than one or as
18 high as you possibly can.
19   Q.   In selling ad space on Meta's
20 Instagram app, does Meta compete with
21 companies that sell ad space on websites?
22   MR. VERNON: Objection to form.
23   THE WITNESS: Yes, we compete
24   for advertising dollars on Instagram
25   and all our apps and services with any

Page 33

1   S. Whitcombe
2   form of advertising that customers
3   might invest in.
4   Q.   In selling ad space on the
5 Instagram app, does Meta compete with
6 companies that sell ads based on newspaper
7 websites?
8   MR. VERNON: Objection to form.
9   THE WITNESS: Yes.
10   Q.   In selling ad space on
11 Facebook's website, does Meta compete with
12 companies that sell ad space on mobile
13 apps?
14   MR. VERNON: Objection to form.
15   THE WITNESS: Yes.
16   Q.   In Meta's experience, do its
17 advertiser customers move their ad dollars
18 between ads on apps and ads on websites?
19   MR. VERNON: Objection to form.
20   THE WITNESS: Yes. We see
21   advertisers move their investments
22   based on the performance metrics that
23   they care about across all forms of
24   advertising.
25   Q.   Can you give an example of an

9 (Pages 30 - 33)

Page 34

1   S. Whitcombe
2 advertiser -- an advertiser customer of
3 Meta that moved ad spends between an app
4 and a website based on performance?
5   A.   Are you looking for me to give
6 an individual advertiser name, an example,
7 or --
8   Q.   If you have one.
9   A.   Off the top of my head, no, I
10 don't have any examples that jump out.
11 But, you know, let's say the sales
12 objective as an example. If somebody is
13 bidding on selling items and their measure
14 of success is return on ad spend, for that
15 advertiser it doesn't matter whether the
16 ads are served. All that matters to them
17 is the return on that investment and they
18 will move dollars fluidly on where that
19 return on investment is.
20   MR. VERNON: Objection to
21   foundation to the last answer.
22   MR. BITTON: Sorry, Mr. Vernon,
23   are you objecting to the question or
24   to the answer?
25   MR. VERNON: To the answer,

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1   S. Whitcombe
2   foundation for him speaking on
3   advertisers' behalf.
4   MR. BITTON: Okay. I'm not aware
5   that you can object to answers.
6   Q.   Mr. Whitcombe, are you familiar
7 with the term "connected television" or
8 CTV?
9   A.   I am, yes.
10   Q.   Does CTV stand for connected
11 television?
12   A.   Yes, that's my understanding.
13   Q.   In selling ads on its owned and
14 operated properties, does Meta compete for
15 ad spend with companies that sell ads on
16 connected television?
17   A.   Yes.
18   MR. VERNON: Objection to form.
19   Q.   Have you ever heard of the term
20 "programmatic advertising", Mr. Whitcombe?
21   A.   I have.
22   Q.   What does that refer to?
23   A.   Programmatic advertising is --
24 and again, I've never worked in
25 programmatic advertising, I've competed

Page 36

1   S. Whitcombe
2 against it -- is I believe advertising
3 that's generally served through a system
4 on the open web of essentially an ad
5 network framing of different publisher
6 sites where a single entity is able to
7 serve demand and supply against those
8 different websites.
9   Q.   And you said you've competed --
10 let me just make sure I get that right.
11   You've said, I've never worked
12 in programmatic advertising but I've
13 competed against it.
14   A.   Yes.
15   Q.   When have you competed or when
16 has Meta competed against programmatic
17 advertising?
18   A.   All the time. Just as I said
19 earlier, we compete against all forms of
20 advertising.
21   Q.   Do you have any examples of
22 providers of programmatic advertising that
23 Meta has competed against?
24   A.   So Google would be an example, I
25 believe Trade Desk would be another

Page 37

1   S. Whitcombe
2 example.
3   Q.   And when Meta competed against
4 Google -- Google's programmatic
5 advertising services, was Meta competing
6 with ad sales on its owned and operated
7 properties?
8   MR. VERNON: Objection to form.
9   THE WITNESS: Yes.
10   Q.   You mentioned Google as a
11 provider of programmatic advertising.
12   Is there a product that Google
13 offers that you had in mind when you
14 mentioned that?
15   A.   The product that came to mind
16 would be Google Display Network.
17   Q.   Does Meta compete against the
18 Google Display Network for ad spend when
19 it sells ads on Facebook?
20   MR. VERNON: Objection to form.
21   THE WITNESS: Yes.
22   Q.   Does Meta compete with the
23 Google Display Network for ad spend when
24 Meta sells advertising space on the
25 Instagram app?

10 (Pages 34 - 37)

Page 38

1   S. Whitcombe
2   MR. VERNON: Objection to form.
3   THE WITNESS: Yes.
4   Q.   I may get to this later, but are
5 there any instances of advertiser counts
6 that you recall where Meta competed with
7 the Google Display Network?
8   A.   Yes. A good example that comes
9 to mind in recent memory is the Ford
10 account spends a significant amount of
11 their performance budget on programmatic
12 advertising. The assumption there is that
13 a decent amount of that would probably be
14 on the Google Display Network.
15   MR. VERNON: Objection to
16   foundation.
17   Q.   You mentioned performance
18 budget.
19   What did you mean by that?
20   A.   Performance budget is budget
21 that was generally focused at the bottom
22 of the marketing funnel to drive sales.
23   Q.   How did Meta --
24   MR. BITTON: Strike that.
25   Q.   What did Meta do to compete for

Page 39

1   S. Whitcombe
2 Ford's business against Google Display
3 Network?
4   MR. VERNON: Objection to
5   foundation.
6   THE WITNESS: Whether we're
7   competing against Google Display
8   Network for any other form of media
9   but particularly towards the bottom of
10   the funnel, investment is made based
11   upon the performance that can be
12   driven. So as we're competing for
13   anybody in the market, we will ask
14   advertisers to run tests to understand
15   and measure the relative performance
16   of their advertising against any of
17   the forms of advertising.
18   Q.   Did Meta gain additional
19 business from Ford when it competed
20 against the Google Display Network?
21   MR. VERNON: Objection. Form and
22   foundation.
23   Go ahead.
24   THE WITNESS: I mean, this was
25   an example that just came up recently.

Page 40

1   S. Whitcombe
2   I don't think we've had the time yet
3   to, you know, measure any progress
4   there.
5   Q.   When -- I think you said that
6 you -- when you're competing in the
7 market, you will ask advertisers to run
8 tests to understand and measure the
9 relative performance of their advertising
10 against any forms of advertising.
11   Has Meta run tests or asked
12 advertisers to run tests to understand or
13 measure the relative performance of ads on
14 Facebook versus ads on Google Display
15 Network?
16   A.   We don't generally run tests --
17 actually, our focus is not to run
18 head-to-head tests against any other form
19 of advertising. Our focus is for
20 advertisers to simply run a test,
21 understand the performance of the ads that
22 they're running with us, and then they can
23 decide whether they want to move budget
24 based on the relative performance of their
25 other media investment.

Page 41

1   S. Whitcombe
2   Q.   You mentioned that Meta also
3 competes against The Trade Desk.
4   Do you recall that?
5   A.   Yes.
6   MR. VERNON: Objection. Form.
7   Q.   Are there any accounts that you
8 recall where Meta competed against The
9 Trade Desk?
10   A.   Again, it's -- I could probably
11 -- coming up with examples, I think most
12 of the advertisers that we work with,
13 large advertisers have quite a diversified
14 media mix. So they're advertising in lots
15 of lots of different places. Most
16 advertisers that we work with will have a
17 significant amount of their budget that is
18 going into digital advertising, and then a
19 portion of that digital advertising
20 whether generally go into programmatic and
21 our assumption is that programmatic will
22 make up Google Display Network, Trade
23 Desk, and maybe others.
24   MR. VERNON: Objection to
25   foundation.

11 (Pages 38 - 41)

Page 82

1   S. Whitcombe
2   dollars.
3   Q.   I'd like to direct your
4 attention to page five in this document.
5   On the -- there's two bar charts
6 on this slide.
7   Do you see that? I want to talk
8 or direct your attention to the one, the
9 left side of the chart.
10   MR. VERNON: Objection.
11   Foundation.
12   Q.   Where it has a heading market
13 share, digital nonsearch.
14   Do you see that?
15   MR. VERNON: Objection to
16   foundation.
17   THE WITNESS: Yes, I do.
18   Q.   Have you seen -- as part of your
19 sales position in Meta's ads business,
20 have you seen charts measuring share of
21 digital nonsearch advertising before?
22   A.   I have not.
23   MR. VERNON: Objection to form
24   and foundation.
25   THE WITNESS: Let me clarify.

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1   S. Whitcombe
2   I've seen charts on market share
3   from third-party sources. This is too
4   small for me to see what the source
5   is, so yeah, I don't know what the
6   source of this data is.
7   Q.   What third-party sources have
8 you seen market share charts?
9   A.   I think there are a number of
10 third-party sources that measure
11 advertising share. I think Adweek would
12 be one, Ad Age measures the top five
13 advertisers. There's a number of
14 different third-party sources.
15   Q.   What does -- what does Meta use
16 those sort of third-party data sources for
17 in the ordinary course of business?
18   MR. VERNON: Objection to form
19   and foundation.
20   THE WITNESS: To understand how
21   -- how we stack up versus the
22   companies that we're competing for ad
23   dollars with.
24   Q.   If we look at this chart on the
25 left here, what does it -- so there's a

Page 84

1   S. Whitcombe
2 blue bar in there.
3   Does that correspond to Facebook
4 on this chart when you look at the
5 companies listed on the right side of this
6 slide?
7   MR. VERNON: Objection to form
8   and foundation.
9   THE WITNESS: Yes. To the best
10   of my understanding, that would
11   correspond to Facebook.
12   Q.   So this chart in -- in the 2016
13 Meta LRP review for ads for the year 2016
14 indicates that Facebook had a twenty-two
15 percent share of digital nonsearch
16 advertising?
17   MR. VERNON: Objection to form
18   and foundation.
19   THE WITNESS: That's what the
20   chart suggests, yes.
21   Q.   And if we look at the dark
22 green --
23   A.   Just to clarify, digital
24 nonsearch advertising; right?
25   Q.   Yes.

Page 85

1   S. Whitcombe
2   A.   Yeah, okay.
3   Q.   And then for the same year -- if
4 we look at the dark green portion of these
5 bars in the chart on the left side on this
6 slide, does that correspond to share of
7 the Google Display Network?
8   MR. VERNON: Objection. Form and
9   foundation.
10   THE WITNESS: It says Google
11   network, it doesn't say Google Display
12   Network. Again, one might assume that
13   would be Google Display Network, but I
14   can't be certain.
15   Q.   And for the year looking again
16 on the bar chart on the left side of slide
17 five in Meta's 2016 LRP review for ads,
18 what share does it show for the Google
19 network in 2016 of digital nonsearch
20 advertising?
21   MR. VERNON: Objection. Form and
22   foundation.
23   THE WITNESS: It shows fourteen
24   percent.
25   Q.   The same question for year 2020

22 (Pages 82 - 85)

Page 86

1   S. Whitcombe
2 starting with the blue bar chart -- the
3 blue portion of the bar chart on the
4 left-hand side, the bar chart on slide
5 five of the Meta 2016 LRP for ads, what
6 share does it show for Facebook in 2020
7 for digital nonsearch advertising?
8   MR. VERNON: Objection to form
9   and foundation.
10   THE WITNESS: Again, if this is
11   a 2016 document, which it suggests,
12   this is a projection, forward-looking
13   projection, and that forward-looking
14   projection for 2020 says thirty
15   percent.
16   Q.   And what does the same bar chart
17 say for the forward-looking projection for
18 2020 for the Google network share of
19 digital nonsearch advertising?
20   MR. VERNON: Objection. Form and
21   foundation.
22   THE WITNESS: For the Google
23   network, the forward-looking
24   projection is nine percent.
25   MR. BITTON: Can we take a five

Page 87

1   S. Whitcombe
2   to ten-minute break to sort of figure
3   out what else we have left for direct?
4   MR. VERNON: That's fine with us.
5   MS. PATCHEN: That sounds good.
6   MR. BITTON: Off the record.
7   THE VIDEOGRAPHER: The time is
8   approximately 12:22 p.m.
9   We are going off the record.
10   (Whereupon a break was taken)
11   THE VIDEOGRAPHER: The time is
12   approximately 12:44 p.m.
13   We are back on the record.
14   Q.   Mr. Whitcombe, in the -- in its
15 ads business, what are -- what does Meta
16 consider sort of growth and investment
17 areas in its ads business?
18   A.   Again, I think it would depend
19 on the context and also -- yeah, the
20 context would be timing as well at any
21 given time.
22   Q.   Today, in terms of time frame
23 today.
24   A.   Today?
25   Q.   Yes.

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1   S. Whitcombe
2   A.   I would say one of the biggest
3 growth areas in our business is Reels
4 format on both Facebook and Instagram, and
5 we're also making a significant investment
6 there.
7   Q.   And what is the Reels format?
8   A.   Reels is the short form video
9 format.
10   And then I think other
11 investments that we're making in our
12 business would be around AI, artificial
13 intelligence.
14   Q.   What sort of investments is Meta
15 making in its ads business around
16 artificial intelligence?
17   A.   Investments in hardware so we
18 can process more information, investments
19 in data centers, and investments in new
20 machine learning models. Yeah, that's --
21 again, I don't believe that's an
22 exhaustive list, I don't work in product
23 or infra, but that would give you a flavor
24 of what I believe those investments are.
25   Q.   And why is Meta investing in new

Page 89

1   S. Whitcombe
2 machine learning models for its
3 advertising business?
4   MR. VERNON: Objection to
5   foundation.
6   THE WITNESS: Because we -- we
7   want to improve the performance of all
8   of our advertising products for
9   advertisers.
10   Q.   In Meta's experience, are others
11 in the industry also investing in
12 artificial intelligence for their ads
13 businesses?
14   MR. VERNON: Objection to form
15   and foundation.
16   THE WITNESS: Yes, they are.
17   Q.   In Meta's experience, is
18 artificial intelligence a significant new
19 technology in the advertising, online
20 advertising business?
21   MR. VERNON: Objection to form
22   and foundation.
23   THE WITNESS: No, not
24   necessarily. I think many companies
25   in this arena and certainly Meta have

23 (Pages 86 - 89)

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1   S. Whitcombe
2   been investing in machine learning in
3   the overarching business for many
4   years. I would say that that
5   investment has accelerated a little in
6   recent times, but it's not -- it's not
7   an incredibly recent change, in my
8   view.
9   Q.   So I see that the part of my
10   question you took issue with is new, it's
11   not a new technology, it's being used
12   already?
13   A.   Yeah.
14   MR. VERNON: Objection to the
15   form and foundation.
16   Q.   And how does artificial
17   intelligence improve Meta's -- the
18   performance of Meta's advertising?
19   MR. VERNON: Objection to
20   foundation.
21   THE WITNESS: We use artificial
22   intelligence to make a prediction of
23   exactly what ad to serve to an
24   individual on which service in order
25   to satisfy the objective that an

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1   S. Whitcombe
2   advertiser is bidding on in our
3   auction.
4   Q.   Has Meta's use of artificial
5   intelligence to improve its advertiser --
6   the performance of its advertising
7   services grown its advertising revenue?
8   MR. VERNON: Objection to form
9   and foundation.
10   THE WITNESS: I think we've made
11   investments in this area because we
12   believe that they will increase the
13   performance of advertisers' investment
14   in our platforms, and historically
15   when we improve performance of
16   advertising, investment in our
17   platform tends to grow.
18   Q.   Beyond Reels and artificial
19   intelligence, are there any other growth
20   areas in online advertising that Meta has
21   invested in?
22   A.   I think there's probably a huge
23   list of areas that we're currently
24   investing in. I don't work in product or
25   engineering within our ads monetization

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1   S. Whitcombe
2   team so I don't have an exhaustive list,
3   but maybe a couple of more examples or
4   another example that might jump to mind
5   would be improving the quality of lead ads
6   has been an area of focus as another
7   example.
8   Q.   Does Meta invest in -- in its ad
9   business, does Meta invest in protections
10   against fraud and spam?
11   A.   Meta has. We make significant
12   investments in platform integrity and
13   business integrity, which include fighting
14   fraud and spam.
15   Q.   What other platform integrity
16   investments does Meta make for its ads
17   business?
18   A.   Again, I work in the advertising
19   sales business, so I don't have a detailed
20   understanding other than what we talk to
21   advertisers about in my capacity in sales.
22   But other areas would be integrity of the
23   advertising content itself, so it's not
24   breaking any of our policies would be
25   another example. I think other areas

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1   S. Whitcombe
2   would be brand impersonation, so if
3   companies were impersonating other brands
4   on our platform. That's just another
5   couple of examples I would use.
6   Q.   And why does Meta invest in -- I
7   think you testified Meta makes significant
8   investments in platform integrity and
9   business integrity which include fighting
10   fraud and spam.
11   Why does Meta make significant
12   investments in those protections?
13   MR. VERNON: Objection to
14   foundation.
15   THE WITNESS: Because we want
16   the experience of people using our
17   apps and services to be a positive one
18   and we want our customers, our
19   advertisers to also have a positive
20   experience when they advertise on our
21   platforms.
22   Q.   Does Meta consider ad fraud, ad
23   spam significant risks to its business?
24   MR. VERNON: Objection. Form and
25   foundation.

24 (Pages 90 - 93)

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1   S. Whitcombe
2   THE WITNESS: I'm not privy and
3   I'm not -- and again, I don't work on
4   the platform integrity team, so my
5   capacity as a Meta expert is really in
6   terms of what we talked -- what we're
7   prepared to talk about with
8   advertisers and answer
9   advertiser-related questions. So I
10   don't know the exact extent of fraud
11   and spam as an issue within our
12   platform. I do know that because we
13   have integrity systems around
14   wholly-owned apps and services, we
15   have a lot of control in that area
16   that gives us I think a very high
17   degree of confidence of being able to
18   police or monitor spam and fraud.
19   Q.   I believe you mentioned earlier
20   that Meta or that --
21   MR. BITTON: Strike that.
22   Q.   You testified earlier about open
23   web and that Facebook has a website on the
24   open web.
25   Do Facebook and Instagram

Page 95

1   S. Whitcombe
2   compete for ad dollars on the open web?
3   MR. VERNON: Objection to form.
4   THE WITNESS: We don't
5   specifically compete for advertising
6   on the open web. We compete for
7   advertising dollars within our apps
8   and services of which the open web is
9   a part of that.
10   Q.   So the open web is part of
11   Facebook and Instagram's ads business?
12   A.   Yes.
13   MR. VERNON: Objection to form.
14   Q.   Earlier we talked about monthly
15   active users metrics, and I believe you
16   spoke about attracting users is also
17   important to Meta's advertising business;
18   is that right?
19   A.   Uh-huh, yes.
20   Q.   How does Meta attract users to
21   its platforms for its advertising
22   business?
23   A.   We engage in marketing to
24   attract -- to attract users to our apps
25   and services.

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1   S. Whitcombe
2   Q.   And does Meta attract or --
3   MR. BITTON: Strike that.
4   Q.   What kind of content does Meta
5   offer on its platforms to attract users?
6   A.   I think the type of content that
7   is on our apps and services is a
8   constantly changing thing depending on
9   user taste and the things that people want
10   to consume. So right now short form video
11   or Reels is a growing part of our business
12   and short form content is content that
13   people want to consume. So that kind of
14   content becomes important, and so we
15   create tools and means for people to
16   create that type of content on our
17   platform.
18   Q.   Does Meta create tools and means
19   for news publishers to create content on
20   its platform?
21   A.   It has done over the years that
22   I've worked on the company, it has created
23   tools for news publishers on our
24   platforms.
25   Q.   Can you provide any examples of

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1   S. Whitcombe
2   tools that Meta has provided news
3   publishers to create content on Meta's
4   platforms?
5   A.   There was a product a number of
6   years ago called Instant Articles that I
7   believe -- again, I did not work in this
8   area of the business, I'm not a specialist
9   here, but my understanding is we built a
10   product called Instant Articles
11   specifically for our news partners.
12   MR. VERNON: Objection to
13   foundation.
14   Q.   And did that product enable news
15   publishers to earn ad revenue as well?
16   MR. VERNON: Objection to form
17   and foundation.
18   THE WITNESS: Again, that's not
19   an area of the business that I
20   specifically worked in, but my
21   understanding is Instant Articles
22   removed friction for customers wanting
23   to consume content. So the content
24   was served on the app side rather than
25   clicking through to the website. And

25 (Pages 94 - 97)

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1   S. Whitcombe
2   from memory, I believe there was a
3   revenue share component to that. But
4   again, I don't have a deep
5   understanding of this.
6   MR. BITTON: Okay.
7   I think that concludes our
8   direct. We'll reserve the rest of our
9   time or redirect.
10   THE VIDEOGRAPHER: Do you want to
11 go off the record?
12   MR. VERNON: Yes.
13   THE VIDEOGRAPHER: The time is
14 approximately 12:59 p.m.
15   We're going off the record.
16   (Lunch recess taken at
17 p.m.)
18
19
20
21
22
23
24
25

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1   S. Whitcombe
2   A F T E R N O O N   S E S S I O N
3   September 28, 2023
4   1:52 p.m.
5   THE VIDEOGRAPHER: The time is
6   approximately 1:52 p.m.
7   We are back on the record.
8   S I M O N   W H I T C O M B E, having
9   been previously duly sworn by a
10   Notary Public of the State of
11   New York, upon being examined,
12   testified as follows:
13 EXAMINATION BY
14 MR. VERNON:
15   Q.   Mr. Whitcombe, welcome back. I
16 hope you had a good lunch.
17   A.   I did. Thank you.
18   Q.   The first question: Do you
19 understand that the information you
20 provide during this deposition may be used
21 by the Department of Justice in other
22 civil, criminal, administrative, or
23 regulatory cases or proceedings?
24   A.   Yes, I do.
25   Q.   And then let me ask you one sort

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1   S. Whitcombe
2   of background question.
3   I think you mentioned earlier
4   that your team and you handle about half
5   of Facebook's large advertisers; is that
6   roughly right?
7   A.   Yes.
8   MR. BITTON: Objection to form.
9   Q.   You do have to do the same thing
10 we did before where you give him a second.
11   Can you describe generally which
12 of Meta's large advertisers fall within
13 your team's purview versus the other team
14 that's led by I think Ms. Press?
15   A.   Yes, of course.
16   So with our large advertiser
17 business, we verticalize or organize by
18 industry. So I oversee -- again, let me
19 get this straight because there's a lot --
20 auto, entertainment, financial services,
21 technology and telco, travel and gaming,
22 and then I also oversee our partnership
23 with Amazon.
24   Q.   Which are the main categories of
25 large advertisers that fall under the

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1   S. Whitcombe
2   other team, the one that's not yours?
3   A.   Yeah, that would be retail, CPG
4   or consumer packaged goods, health, and
5   e-commerce.
6   Q.   Okay. Thank you.
7   Let me switch topics slightly,
8   if that's okay.
9   It's fair to say advertisers
10 generally have separate advertising
11 buckets for social and programmatic; is
12 that correct?
13   MR. BITTON: Objection to form.
14   Leading. Lacks foundation.
15   THE WITNESS: I wouldn't say
16   that they necessarily have separate
17   budgets. I think that they might
18   organize how they think in that way,
19   but performance-minded advertisers,
20   oftentimes they will not put a budget
21   in a specific category like a
22   programmatic. They'll have a budget
23   and then they'll fluidly move that
24   around based on performance.
25   And again, social definition is

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1              S. Whitcombe
2    a difficult one; right?  So I think
3    many advertisers and even agencies
4    think about social in different ways,
5    so it's not always clear exactly what
6    that means.  An example of that is
7    some advertisers think about YouTube
8    as social, others don't.  So I think
9    those definitions are not consistent
10   with advertisers and agencies.  I
11   think that they differ.
12   Q.   So it sounds like your testimony
13   is that, in general, advertisers do not
14   have separate budgets for social and
15   programmatic; is that correct?
16       MR. BITTON: Objection to form.
17       THE WITNESS:  Again, I think
18   advertisers will handle this in very
19   different ways.  I think that some
20   advertisers may start out with a
21   budget in categories similar to the
22   ones that you're talking about.  I
23   think others might go with the digital
24   budget and not break digital down into
25   -- into buckets or categories.  And
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1              S. Whitcombe
2    certainly in my experience, investment
3    moves fluidly between those -- those
4    categories.
5    Q.   Facebook often has -- I'm sorry,
6    Meta often has a time convincing
7    advertisers to shift money from their
8    programmatic budgets to Meta; is that
9    correct?
10       MR. BITTON: Objection.  Leading.
11   Lacks foundation.
12       THE WITNESS:  I don't think
13   that's correct, no.  You know, I think
14   that advertisers allocate budgets
15   based upon performance.  The
16   performance --
17       THE VIDEOGRAPHER: Sir, your
18   microphone.
19       THE WITNESS:  Is that better?
20   Does that work?
21       Advertisers allocate budgets
22   based upon performance and at all
23   stages of the marketing funnel.  And I
24   believe that Meta's advertising is
25   competitive at all stages of the
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1              S. Whitcombe
2    funnel with any of our competitive
3    set.
4        Now, what performance looks like
5    on an advertiser-by-advertiser basis
6    may differ depending on the outcome
7    that they care about or the
8    performance level that they care about
9    or based upon how they measure
10   performance.  So that's a variable.
11   But I wouldn't say that we have
12   consistent issues -- I would say that
13   our performance is competitive
14   throughout.
15       MR. VERNON: Can we mark a
16   document, I think this is Meta
17   Exhibit 15.
18       (Whereupon, an e-mail dated
19   October 9, 2019 was marked
20   Exhibit 15 for identification.)
21   Q.   Let me just describe it for the
22   record.  Take a second to look at it.
23       For the record, this a document
24   with the Bates number ending in 1238 with
25   an e-mail at the top from Sean Ryan.  It's
```

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```
1              S. Whitcombe
2    dated October 9, 2019 with an attachment
3    and the subject forward AN-only,
4    parentheses, working on new name.
5        Let me know when you're ready.
6    A.   (Reviewing).
7        MR. BITTON: I'll just state an
8    objection as to scope because this
9    seems to be a document about the
10   Audience Network which is the subject
11   of a prior deposition.
12   Q.   If it helps, I think you've
13   reached the part of the presentation
14   beyond which I won't be asking any
15   questions.
16   A.   Okay.
17   Q.   So the first question: This is
18   an e-mail among Facebook employees with an
19   attached presentation titled Audience
20   Network standalone buying; is that
21   correct?
22   A.   Yes, it's correct.
23   Q.   Do you have any reason to doubt
24   that this was an e-mail and presentation
25   prepared in the ordinary course of
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27 (Pages 102 - 105)

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 1            S. Whitcombe
 2   up that discussion off the record at a
 3   later time.
 4       THE VIDEOGRAPHER: The time is
 5   6:30 p.m.
 6       This concludes today's
 7   testimony.
 8       We are off the record.
 9       (TIME NOTED:  6:30 p.m.)
10   _____ (Signature of witness)
11   Subscribed and sworn to
12   before me this_____
13   day of_____,
14   2023.
15   _____
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17
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25
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Veritext Legal Solutions

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1
2   CERTIFICATION BY REPORTER
3
4   I, Wayne Hock, a Notary Public of the
5 State of New York, do hereby certify:
6   That the testimony in the within
7 proceeding was held before me at the
8 aforesaid time and place;
9   That said witness was duly sworn
10 before the commencement of the testimony,
11 and that the testimony was taken
12 stenographically by me, then transcribed
13 under my supervision, and that the within
14 transcript is a true record of the
15 testimony of said witness.
16   I further certify that I am not
17 related to any of the parties to this
18 action by blood or marriage, that I am not
19 interested directly or indirectly in the
20 matter in controversy, nor am I in the
21 employ of any of the counsel.
      IN WITNESS WHEREOF, I have hereunto
22 set my hand this 29th day of September, 2023.
23
24   *[signature: Wayne Hock]*

25   Wayne Hock

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